

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 7

April 4, 2013

SUBJECT: RESTRAINING ORDERS - REVISED

PURPOSE: The purpose of this Order is to eliminate the requirement to obtain a Division of Records (DR) number for Restraining Orders.

PROCEDURE: Attached are the Manual Sections regarding Restraining Orders, with the revisions indicated in italics. Previously, a DR number was necessary for tracking purposes. With the inception of the California Restraining and Protective Order System (CARPOS), each Restraining Order is issued a File Control Number (FCN) upon entry into the database. The FCN will now be used to track Restraining Orders.

AMENDMENTS: This Order amends Sections 4/216.03 and 4/216.06 of the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Internal Audits and Inspections Division, will review this directive and determine whether an audit or inspection will be conducted in accordance with Department Manual Section 0/080.30.



CHARLIE BECK
Chief of Police

Attachment

DISTRIBUTION "D"

DEPARTMENT MANUAL
VOLUME IV
Revised by Special Order No. 7, 2013

4/216.03 RESTRAINING ORDERS. Restraining Orders (RO) and Temporary Restraining Orders (TRO) include, but are not limited to, Domestic Violence Restraining Orders (DVRO), Emergency Protective Orders (EPO), Orders After Hearing (OAH), Juvenile Orders (JUV), Criminal Protective Orders (CPO), and Temporary Workplace Harassment Orders (WHO). Some of these orders are issued by a criminal court (criminal order), while others are from civil court (civil order). A civil order is as enforceable as a criminal order. If a victim possesses both a criminal and civil order, the **criminal** order takes precedence over the civil order.

When an Area receives an RO, whether delivered in person or by fax, the record clerk (or designated person) must query the California Restraining and Protective Order System (CARPOS) to determine if an entry has previously been made. If the query reflects an existing RO entry, the records clerk will write the File Control Number (FCN) issued in CARPOS on the RO and the RO folder. If the RO is not present in CARPOS, the records clerk must enter the pertinent information from the RO into CARPOS and obtain an FCN. The CARPOS generated FCN will be documented on the RO and the RO folder.

Exception: *If the RO is connected to an existing crime report, the associated DR number and the FCN will be written on the RO and the RO folder.*

In all instances, the FCN will take precedence for tracking purposes.

Inputting the RO should be a priority over other tasks due to the high risk of incident to the victim.

Multiple Orders – Enforcement. If there is more than one civil order involving the same parties, the officer *must* enforce the last order issued. If there are both civil and criminal orders involving the same parties, the officer *must* enforce the most recently issued criminal order.

Complainant in Possession of a Restraining Order. When officers are presented with a Restraining Order in the field or at the Area desk, they *must*:

- Verify that the order has been certified by the issuing court;

Note: A certified copy of an order will bear an ink stamp signed by the deputy clerk of the court documenting authenticity.

- Ensure that the order has not expired;
- Review the proof of service to ensure it was properly served upon the restrained party/respondent;
- Ensure that the Domestic Violence Restraining Order - Law Enforcement Information Form (Information Form) supplied by the court is completed. If an Information Form has not been completed, the officer *will* give a form to the plaintiff for completion. The Information Form *must* then be attached to the order; and,

Note: When an order is received in the mail and the Information Form has not been completed, the Subpoena Control Officer *will* telephonically contact the plaintiff and obtain the necessary information for completion of the form.

**DEPARTMENT MANUAL
VOLUME IV
Revised by Special Order No. 7, 2013**

- Forward the Information Form and the proof of service to the Area Subpoena Control Officer.

Note: Officers' responsibilities at the scene of a domestic disturbance remain unchanged.

When the Department Does Not Have a Copy of the Restraining Order. When officers discover that this Department does not possess an order that was presented in the field, they *will* determine whether the complainant has an extra copy of the order. If so, officers *will* request one and deliver it to the Area desk.

Note: Area desk personnel are responsible for ensuring that an entry is completed on the Restraining Order Control Log, Form 15.40.00, *and the FCN is documented.*

Should no additional copy be available, and photocopying is impractical, officers *must* promptly notify the Area desk and provide the following information:

- Name of complainant;
- Address restrained from (if indicated);
- Date of issuance;
- Date of expiration; and,
- Court case number.

Area desk personnel receiving the above information *will* record the information in the Restraining Order Control Log.

When unable to obtain a copy of the order, officers *will* request the complainant to deliver a copy to the Area desk (or provide one to be photocopied) as soon as possible.

Note: No enforcement action may be taken as a result of the information contained on the Restraining Order Control Log. The Restraining Order Control Log is used to assist officers in locating the order within the Department. If an officer cannot locate the order and the complainant does not have a copy of the order, no enforcement action may be initiated by officers pursuant to Penal Code Section 273.6 (Willful and Knowing Violations of Orders to Domestic Violence), or Penal Code Section 166 (Criminal Contempt). If the complainant insists upon making a citizen's arrest, officers *will* be guided by Sections 4/216.31, 4/216.32, 4/216.33, and 4/216.34 of the Department Manual.

Proof of Service. An order *must* be accepted from the complainant whether or not the proof of service has been completed. The complainant *will* be advised that personal service of the order is required before enforcement can be taken against the respondent. If a person named in an order has not been served personally with the order, but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

**DEPARTMENT MANUAL
VOLUME IV
Revised by Special Order No. 7, 2013**

When proof of service is *not* attached to an otherwise valid order presented to officers in the field, the officers *must* contact the Area desk to determine whether other officers of this Department accomplished the proof of service. If prior proof of service cannot be established, officers *will* advise the restrained party/respondent that a valid order is in effect and state its conditions to the respondent. If the complainant has an extra copy of the order, officers *will* give it to the respondent.

Officers *must* complete the proof of service when:

- The complainant is in possession of an incomplete proof of service; and,
- The officers advised the respondent of the conditions of the order.

If the respondent is present at the scene, officers *must* document how the service of the order was accomplished in the narrative of any crime, arrest, or Domestic Violence Incident Report completed, pursuant to Penal Code Section 13730.

Complainant Not in Possession of an Order. Officers at the scene of a dispute where a valid order is alleged to exist, but the complaining person does not possess a copy of the order, *will* attempt to telephonically verify the existence of the order through the *Consolidated Crime Analysis Database (CCAD) and CARPOS*.

Note: If an officer cannot locate the order, no enforcement action may be initiated by the officers.

If the officer determines that an order has been issued, but not served, the officer *must* immediately notify the respondent of the terms of the order. Verbal notice of the terms of the order is sufficient notice.

The verbal notice *must* be documented in the related crime, arrest or Domestic Violence Incident Report. If no report is required, note the verbal notice in the Daily Field Activities Report (DFAR), Form 15.52.00. The officer *must* also include the name and assignment of the officer notifying the respondent and the case number of the order. Additionally, the officer *must* advise the respondent to go to court to obtain a copy of the complete order.

Failure to Comply. When, after notification of the conditions of the order, the respondent fails to comply, officers *must*:

- Arrest the restrained party; and,
- Book for 273.6 P.C. (Willful and Knowing Violation of Orders Relating to Domestic Violence), or 166 P.C. (Criminal Contempt).

If a violation of the order did *not* occur in the presence of the officers and proof of service *can* be established, officers shall:

- Proceed with a private person's arrest for 273.6 P.C. or 166 P.C.; or,

**DEPARTMENT MANUAL
VOLUME IV
Revised by Special Order No. 7, 2013**

- Complete an Investigative Report, Form 03.01.00, entitled "Contempt of Court," if the suspect left the scene prior to the officers' arrival.

The narrative section of related crime and arrest reports *must* contain the following information:

- Court case number;
- Expiration date;
- Manner in which the proof of service was accomplished and by whom; and,
- Verbatim listing of the conditions of the order.

Notifications. Officers, as soon as practical, *must* notify the Area desk maintaining the order of what enforcement action was taken (i.e., field interview, crime report, physical arrest). Department employees receiving the notification *will* attach a brief narrative summary to the file copy of the order. The summary should also include:

- *File Control Number;*
- *DR/Booking numbers, if applicable;*
- *Date and time of the incident;*
- *Name, serial number and unit designation of the responding officers; and,*
- *Initials and serial number of the employee recording the information.*

When proof of service was effected in the field, the officers should include the following information in their notification:

- Name of the respondent;
- Manner that proof of service was accomplished;
- Date and time served; and,
- Name, serial number and unit designation of the officer accomplishing service.

Desk officers receiving notification of an order *not* on file with this Department *will* record the information on the Restraining Order Control Log. The initials and serial number of the officer completing the log *must* be included under "additional." Proof of service and enforcement actions taken pursuant to the order *must* also be recorded on the log until a file copy of the order can be obtained.

Note: Officers at the scene of a labor dispute *will* be guided by the provisions of Manual Section 1/460.30 and *must* contact Labor Relations Unit before taking any enforcement action on an order.

Recording the Issuance of a Restraining Order on a Report. If a report has been completed and the notification of the existence of an order has been communicated to the respondent, the officer *must* document how the service of the order was accomplished in the narrative of the report.

**DEPARTMENT MANUAL
VOLUME IV
Revised by Special Order No. 7, 2013**

If no report is required, the officer *must* provide the name and assignment of the officer notifying the respondent and the case number of the order on the DFAR.

Upon service of the order outside of the court, the officer *must* advise the respondent to go to the local court to obtain a copy of the order containing the full terms and conditions of the order.

Peace Officers Named as Respondents. When a Subpoena Control Officer receives a Restraining Order that identifies the respondent as a member of a law enforcement agency, the subpoena control officer *must* notify his or her commanding officer. The commanding officer *will* ensure that a copy of the order is sent to the Chief of Police of the involved agency. If the respondent is a member of the Department, the commanding officer *will* forward a copy of the order to the Commanding Officer, Internal Affairs Group.

4/216.06 DISTRIBUTION AND CONTROL OF RESTRAINING ORDERS.

Distribution of Restraining Orders. The Warrant Teletype Unit (WTU), Records and Identification Division (R&I) or the *Geographical Area*, upon receiving a restraining order from the issuing court clerk, *will* input the restraining order information into the Department of Justice Domestic Violence Restraining Order System (DVROS) when the restraining order is one of the specific types for which such entry is required under Family Code Section 6380.

Area Subpoena Control Officer's Responsibility. Upon receipt of a restraining order, proof of service, and the Information Form, Area Subpoena Control Officers *must*:

- Record the *File Control Number (FCN)* in the upper right corner of all pages of the order;
- Maintain a Restraining Order Control Log, Form 15.40.00, of valid orders on file;
- Establish a file of restraining orders in a location accessible to uniformed desk personnel;
- Periodically purge expired restraining orders from the active file; and,
- Forward the order, proof of service, and the Law Enforcement Information Form to Area records personnel for entry of restraining order information into the DOJ DVRO database.

Note: Restraining orders *will* be retained by the respective Area or the Restraining Order System, Records and Identification Division, for *two* years beyond the date of expiration.